

CONSULTANT SERVICES AGREEMENT

Contract No. 2025-139

This Contract is entered into this 20 day of February, 2025 by and between the City of Flagstaff, a political subdivision of the State of Arizona ("City"), and ATL, Inc. dba CMT Engineering Laboratories an Arizona C corporation ("Consultant").

WHEREAS, the City desires to receive and Consultant is able to provide consulting services;

NOW THEREFORE, in consideration for the mutual promises herein, the Parties agree as follows:

1. Scope of Work: Consultant shall provide the consulting services generally described as:

Materials Testing Professional Services

and as more specifically described in the Quote attached here to as Exhibit A (the "Services").

2. Term and Renewal:

- 2.1 Contract Term: The term is for a period of one (1) year unless terminated pursuant to the provisions of the Contract. The Contract will be effective as of the date signed by both parties. The City Council has the authority to amend the term of the Contract.

- 2.2 Renewal: The Contract may be renewed or extended for up to one (1) year additional, terms by mutual written consent of the parties. The City Manager or his/her designee (the Purchasing Director) shall have authority to approve renewal on behalf of the City.

- 2.3 Unilateral Extension: The Contract may be unilaterally extended for one (1) 90-day period. The City Manager or his/her designee (the Purchasing Director) shall have the authority to approve the extension on behalf of the City. Contractor will be provided written notice of the Unilateral Extension prior to expiration of the Contract.

3. Compensation: Consultant shall be paid for satisfactory performance of the Contract in an amount not to exceed **ninety-nine thousand nine hundred ninety dollars and zero cents (\$99,990.00)**, including fees and taxes, based on an hourly rate made in accordance with the Quote attached hereto as Exhibit A. Any price adjustment must be approved by mutual written consent of the parties through a formal amendment. The City Manager or his/her designee may approve an amendment if the total amount of the Contract, as amended, is less than \$100,000; otherwise, City Council approval is required.

4. Termination & Cancellation Clauses.

- 4.1 Non-Appropriation: The City may terminate the Contract due to budget constraints and non-appropriation of funds for the following fiscal year, without penalty or liability to Consultant.

- 4.2 For Convenience: Either Party may terminate the Contract for any reason by giving the other Party written notice of such termination no less than fifteen (15) days prior to the date of termination. If the Contract is so terminated, the City's only payment obligation under the Contract shall be for those services completed prior to the effective date of the termination.

- 4.3 Conflict of Interest: Pursuant to A.R.S. § 38-511, if the City identifies a conflict of interest in the award or performance of the Contract, the City may cancel the Contract within three (3) years after its execution, without penalty or further liability to Consultant.
5. Amendment: The Contract is intended to be the complete and final agreement of the Parties. The Contract may be amended through a formal written amendment Parties.
6. Compliance with Laws: Consultant shall comply with all applicable federal, state, and local laws, regulations, standards, codes, and ordinances, including acquiring the requisite insurance, licenses, permits, and approvals, required to perform the Contract, and provide copies to City upon request.
7. Insurance:
 - 7.1 Coverage: Contractor shall carry \$1,000,000 of Commercial General Liability insurance, \$500,000 Automotive Liability insurance, and the State of Arizona statutorily required amount of insurance for Workers' Compensation and Employer's Liability.
 - 7.2 Professional Liability: Where the Contractor is required by state statute to maintain certain licensure to provide the Services required in the Contract, Contractor shall maintain \$2,000,000 of Professional Liability insurance.
 - 7.3 Certificate of Insurance: Contractor shall provide a Certificate of Insurance to the City documenting the requisite coverage before engaging in the Scope of Work defined above.
8. Indemnity: Consultant shall be fully liable for the actions of its agents, employees, partners, and assigns and shall fully indemnify, defend, and hold harmless the City, and their officers, agents, and employees from third party suits, actions, damages, and costs of every name and description, including attorneys' fees to the extent arising from or relating to personal injury and damage to real or personal property, caused in whole or in part by the negligence or willful misconduct of Consultant, its agents, employees, partners, or assigns. This indemnification shall survive termination or expiration of the Contract.
9. Assignment/Subcontracting: Consultant shall not assign, sell, transfer, or subcontract rights, or delegate responsibilities under this Contract, in whole or in part, without prior written approval of the City.
10. Independent Contractor: Consultant shall be an independent contractor for purposes of all laws, including but not limited to the Fair Labor Standards Act, Federal Insurance Contribution Act, Social Security Act, Federal Unemployment Tax Act, Internal Revenue Code, Immigration and Naturalization Act; Arizona revenue and taxation, workers' compensation, and unemployment insurance laws.
11. Nondiscrimination: Consultant shall not discriminate against any employee or applicant for employment or person to whom it provides services because of race, color, religion, sex, national origin, disability, genetic information, veteran's status, pregnancy, and/or familial status and represents and warrants that it complies with all applicable federal, state, and local laws, ordinances and executive orders regarding employment.
12. City Ownership of Document and Data: Any original documents prepared or collected by Consultant in performance of this Contract such as models, samples, reports, surveys, survey results, graphics, tables, charts, plans, computations and other data shall be the property of City ("City's work product"). Consultant agrees that all materials prepared under this Contract are "works for hire" within the meaning of the copyright laws of the United States and hereby assigns to the City all rights and

interests Contractor may have in the materials it prepares under this Contract, including any right to derivative use of the material.

13. Re-Use: The City may use the City's work product without further compensation to Consultant; provided, however, that the City's reuse without written verification or adaption by Consultant for purposes other than contemplated herein is at the City's sole risk and without liability to Consultant. Consultant shall not engage in any conflict of interest nor appropriate any portion of the City's work product for the benefit of Contractor or any third parties without the City's prior written consent.
14. Delivery of Document and Data: Upon termination of this Contract in whole or part, or upon expiration if not previously terminated, Consultant shall immediately deliver to the City copies all of the City's work product and any other documents and data accumulated by Consultant in performance of this Contract, whether complete or in process.
15. Immigration Laws: Pursuant to A.R.S. § 41-4401, Consultant hereby warrants that it and each of its subcontractors shall comply with all state and federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). A breach of state and/or federal immigration laws and regulations shall constitute a material breach of the Contract.
16. Forced Labor of Ethnic Uyghurs: Consultant hereby certifies that it does not use the forced labor of ethnic Uyghurs in the People's Republic of China as defined in A.R.S. § 35-394, et seq.
17. Notice: Any formal notice under the Contract shall be in writing via certified mail and email as follows:

To the City:

To the City:

Angel Baca

City Engineering

City of Flagstaff

211 W. Aspen Ave.

Flagstaff, AZ 86001

Email: Abaca@flagstaffaz.gov

To Contractor:

D. J. Peters

Arizona Regional Manager

CMT Engineering Laboratories

2355 N. Steves Blvd., Suite B

Flagstaff Az, 86004

daniel.peters@cmttechnicalservices.com

With a copy to:

Emily Markel

City of Flagstaff


211 W. Aspen Ave.

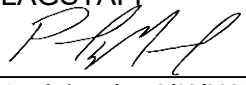
Flagstaff, AZ 86001

Email: EMarkel@flagstaffaz.gov

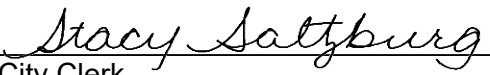
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18. Authority: Each Party warrants that it has authority to enter into the Contract and perform its obligations hereunder, and that it has taken all actions necessary to enter into the Contract.


CONSULTANT:
By: 
Title: Arizona Regional Manager
Date: 2/11/2025

CITY OF FLAGSTAFF
By: 
Paul A. Mood signed on 2/18/2025 1:12:07 PM
Title: Director, Engineering
Date: _____

ATTEST:


City Clerk
Stacy Saltzburg signed on 2/20/2025 7:32:39 AM

APPROVED AS TO FORM:


Christina Rubalcava signed on 2/18/2025 12:08:24 PM
City Attorney's Office

Notice to Proceed issued: _____, 20__

Last Updated November 19, 2024

EXHIBIT A
SCOPE OF WORK and PRICE SCHEDULE

Scope of Work

1. Equipment and Laboratory

- a. All laboratory equipment shall be calibrated annually. Verification of calibration is required. Ongoing maintenance of equipment is required. The City reserves the right to inspect laboratory facilities at any time.
- b. Nuclear densometers are required for determining field density, moisture content and oil content and shall always be stored and operated in strict adherence to State of Arizona radiation regulatory agency requirements.

2. Personnel Qualifications and Personnel Performance

- a. The City requires that field personnel have ACI certification, NICET and/or ATTI certifications. These certifications ensure the personnel can perform the required tasks as warranted.
- b. Ability to maintain strict adherence to industry accepted testing procedures and requirements when conducting and reporting test results.
- c. Field personnel are required to meet a one-hour maximum response time between various project locations.
- d. Perform critical tests and sampling for asphalt (e.g. Marshall plug, oil content, gradation, stability/flow and voids) and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
- e. Perform critical tests and sampling for soils and aggregate base course (e.g. proctor, sieve, plasticity index and gradation) following initial testing and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
- f. Field personnel shall have received safety training, competency in confined space entry, flagging and traffic control, trench excavations and general work zone safety.
- g. Materials testing field personnel shall have the ability to:
 - i. Accept direction from the City's Construction Manager and/or designee.
 - ii. Function as a team member.
 - iii. Provide excellent customer service in all situations that arise on a construction site.
 - iv. Perform duties as an extension of City staff.
 - v. Accept direction from City Inspectors as to frequency and location of tests and how to report failing tests to the City's customers.
 - vi. Read construction plans and specifications.
 - vii. Identify issues and to communicate concerns to the City Inspector.

3. Contractor's Criteria

- a. All laboratory materials testing shall be conducted under the direct supervision of a Professional Engineer registered in the State of Arizona.
- b. Staff must be skilled, knowledgeable and well trained in materials testing processes and protocols.
- c. Contractors must be able to maintain a fully integrated training and quality control program, independently from the City.
- d. Quality control is the responsibility of the Contractor. The Contractor shall provide quality assurance testing, solely on the City's behalf, for improvements performed under City permit(s).
- e. Contractor shall perform testing accurately with attention to detail in both the laboratory and in the field.

- f. A minimum of two (2) materials testing field personnel shall be provided, solely dedicated to the City's projects from April 15 to December 15. The personnel shall be available to respond on an as need basis with a twenty-four (24) hour notice from December 15 through April 15
- g. Contractor must adjust staffing level to accommodate fluctuations in workloads.
- h. Regular attendance is a mandatory requirement of the service provided. Staff must be able to work weekends, holidays and night shifts.
- i. Field personnel must have adequate construction site transportation, cell phones, necessary field-testing equipment and safety clothing.
- j. Maintain accurate and complete records and reports. Submittal of test results to the City on a weekly basis.

Price Schedule: Attached

CMT Engineering Laboratories
2921 N 30th Avenue
Phoenix, AZ 85017

8/6/2024

City of Flagstaff

<u>Labor</u>	<u>Rate</u>
M. Rivera Jr	\$72.00
A. Baker	\$72.00
S. Tolf	\$72.00
M. Mijares	\$72.00
M. Mijares - OT	\$108.00
S. Barrios (Clerical)	\$45.00
C. Reynolds T4	\$78.00
C. Reynolds (reports/meetings)	\$100.00
M. Pooler (reports/meetings)	\$100.00
H. Belliston (PE)	\$150.00
<u>Tests</u>	
Concrete	\$18.00
Ignition gradation	\$125.00
AC moisture	\$18.00
Marshall	\$110.00
Rice	\$72.00
Marshall Stability & Flow	\$110.00
Asphalt Binder	\$765.00
Fractured Faces	\$105.00
LA Abrasion	\$150.00
Lightweight Pieces	\$200.00
Gradation	\$70.00
Atterberg	\$65.00
Std Proctor	\$125.00